IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEVE WEINBERG **Plaintiff,** **v.** **NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION, RICHARD BERTHELSEN, GENE UPSHAW, TOM DEPASO, TRACE ARMSTRONG, ROGER KAPLAN, JOHN COLLINS, KEITH WASHINGTON, TONY AGNONE, HOWARD SHATSKY, and MARK LEVIN** **Defendants.**	§ § § § § § § § § § § § § § § §	**CIVIL ACTION NO. 3:06-CV-2332-B ECF**

APPENDIX IN SUPPORT OF REPLY OF ROGER KAPLAN

Description of Document	Appendix Page Number(s)
Supplemental Affidavit of Roger P. Kaplan	App. 53-60
Letter to Kaplan from DePaso (re: Stephen Davis), dated 11/20/02	App. 61
Letter to Kaplan from DePaso (re: Doug Evans), dated 11/20/02	App. 62
Letter to Kaplan from DePaso (re: Keith Traylor), dated 11/20/02	App. 63
Letter to Kaplan from DePaso (re: Lionel Dalton), dated 11/20/02	App. 64
Letter to Weinberg and Silber, dated 11/26/02	App. 65
Letter from Berthelsen to Weinberg, dated 05/25/04	App. 66
Letter to Kaplan from Strasser, dated 06/01/04	App. 67-68
Letter to Kaplan from Strasser, dated 06/14/04	App. 69-70
Letter to Kaplan from Strasser, dated 07/08/04	App. 71
Subpoena for Records to Berthelson, issued by Kaplan, 06/24/04	App. 72-73
Letter to Kaplan from Strasser, dated 08/04/04	App. 74
Letter to Kaplan from Berthelsen, dated 08/26/04	App. 75
Subpoena for Records to Berthelsen issued by Kaplan, 08/10/04	App. 76-78
Letter to Kaplan from Strasser, dated 09/07/04	App. 79-80

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEVE WEINBERG **Plaintiff,** **v.** **NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION, RICHARD BERTHELSEN, GENE UPSHAW, TOM DEPASO, TRACE ARMSTRONG, ROGER KAPLAN, JOHN COLLINS, KEITH WASHINGTON, TONY AGNONE, HOWARD SHATSKY, and MARK LEVIN** **Defendants.**	§ § § § § § § § § § § § § § § § §	**CIVIL ACTION NO. 3:06-CV-2332-B ECF**

SUPPLEMENTAL AFFIDAVIT OF ROGER P. KAPLAN

Before me, the undersigned authority, on this day personally appeared Roger P. Kaplan who, after being by me duly sworn, deposed and said:

1. "My name is Roger P. Kaplan. I am over the twenty-one (21) years of age, am of sound mind, and am fully qualified, and not disqualified by law, to make this affidavit. I have personal knowledge of all statements of fact set forth in this affidavit.

2. I have carefully reviewed the Response filed by Steven Weinberg to my Motion to Dismiss his suit against me for lack of personal jurisdiction. I have, in particular, reviewed Mr. Weinberg's Declaration and the exhibits attached to it. I have the following comments to make with respect to those exhibits:

A. In paragraph 3 of his Declaration, Mr. Weinberg states that I served as arbitrator for numerous disputes involving his clients and that I personally traveled to Texas in connection with at least one of those disputes. He attaches in support of his statement correspondence and invoices involving the grievance of *Woods & Associates v. Oglesby*, NFLPA No. 95-7. Mr. Weinberg represented Mr. Oglesby in that dispute. It is true that this arbitration was scheduled for hearing in Texas, at the request of both parties, and I came to Texas especially for the purpose of conducting that hearing, and for no other purpose. This grievance was settled before I could conduct the hearing. The grievance was settled more than ten (10) years ago, and none of the issues involved in that arbitration relate to any of the claims being made by Mr. Weinberg in his current suit against me and the other defendants.

B. Mr. Weinberg attached as Exhibit App. 19 to his affidavit a letter sent to him and Mr. Howard Silber on August 3, 1999, in which I stated that I would contact the parties to schedule a hearing upon receipt of a deposit of Three Thousand Dollars ($3,000.00) from each of the parties to that arbitration. I never received the deposit from either party, and I was advised by Mr. Weinberg's attorney, Michael Kirshon, that I should not schedule a hearing on this arbitration because the parties were attempting to settle their differences without the need of arbitration. This is substantiated by Mr. Weinberg's letter of October 1, 2004, to Tom DePaso (App. 23 to Plaintiff's Response) which states: "I am presently trying to reach a final settlement with NFLPA Contract Advisor Howard Silber."

C. Exhibit App. 21 and 22, and Exhibit App. 23 are copies of two letters addressed to Mr. Tom DePaso in the legal department of the National Football League Players Association (NFLPA). These letters were not addressed to me, nor did I receive a copy of them. I will note, however, these letters state that the NFLPA had never sent ten (10) grievances to me for hearing, and that there was no record that either Jeno James or Keith Traylor had ever filed a grievance against Howard Silber.

D. Some portions of Mr. Weinberg's September 28, 2004, letter to Mr. DePaso (App. 21 and 22) are factually incorrect. Attached to this affidavit are copies of correspondence to me from Mr. Tom DePaso requesting me to schedule a hearing date on four (4) grievances that had been filed:

(1) a letter to me (one page) dated November 20, 2002, from Mr. DePaso requesting that a hearing be scheduled on the Stephen Davis grievance. (App. 61). This grievance was scheduled for hearing in early October 2004, as Mr. Weinberg's letter states (App. 21);

(2) a letter to me (one page) dated November 20, 2002, from Mr. DePaso requesting that a hearing be scheduled on the Doug Evans grievance (App. 62);

(3) a letter to me (one page) dated November 20, 2002, from Mr. DePaso requesting that a hearing be scheduled on the Keith Traylor grievance (App. 63);

(4) a letter to me (one page) dated November 20, 2002, from Mr. DePaso requesting that a hearing be scheduled on the Lional Dalton grievance (App. 64); and

(5) my letter (one page) dated November 26, 2002, to Messrs. Weinberg and Silber requesting that they contact me with suggested hearing dates on the four (4) grievances for which I had received the authorization letters referenced above (App. 65).

Neither Mr. Weinberg nor Mr. Silber contacted me to schedule any of those grievances for hearing, other than the Stephen Davis grievance. Had other grievances been sent to me, I would have scheduled them for hearing in my customary manner.

E. Plaintiff's Exhibits App. 24 and 25 are copies of letters I sent to two (2) clients of Mr. Weinberg who had filed grievances against Howard Silber, and I requested that those players advise me if they wished to pursue those grievances. As the two (2) exhibits show, Mr. Weinberg received a copy of my letter to each of the players. Neither requested a hearing on the grievance he had filed, and the grievances, accordingly, were dismissed.

F. Plaintiff's Exhibits App. 31 through App. 38 are copies of form letters that I routinely send to counsel for players for grievances filed by those players against their Contract Advisors or by Contract Advisors against their player clients. Each of these letters attached to Mr. Weinberg's affidavit (App. 31-38) represents an attempt by me to schedule grievance hearings over disputes filed by Mr. Weinberg against players who did not pay him. I am the only arbitrator designated by the NFLPA to hear disputes between players and Contract Advisors, and I have heard such grievances since 1994 when I replaced John Culver, the previously designated NFLPA arbitrator to hear these types of grievances.

3. Between approximately fifty (50) to seventy (70) player/Contract Advisor grievances are filed annually. I hear approximately twenty (20) of these cases each year. Upon receipt of notice that a grievance has been filed, I send my form letter to the parties and counsel stating that I will set a case for hearing, at their request.

4. The NFLPA has never told me not to schedule a grievance for hearing, and I have never failed to schedule a grievance when properly contacted by parties or counsel for a hearing date.

5. As Mr. Weinberg states in his Response, the NFLPA revoked his license to serve as a Contract Advisor for a period of three (3) years. Pursuant to the NFLPA regulations, revocation of the right to serve as a Contract Advisor was effective immediately, and would not be stayed pending an appeal of the revocation decision. When Mr. Weinberg appealed the effective date of his revocation pending a final hearing, I denied the interim appeal because the NFLPA's order had been issued in accordance with its regulations.

6. Mr. Weinberg, through his attorney, then appealed the revocation decision to me, since I am designated as the arbitrator to hear any such appeal. I scheduled the appeal for hearing and, upon hearing, overturned the revocation decision and reduced the revocation to an eighteen (18) month suspension.

7. Attached to this Supplemental Affidavit and incorporated herein for all purposes, are relevant pieces of correspondence relating to my contact with Mr. Weinberg or his attorneys concerning the scheduling of grievances which Mr. Weinberg states I refused to schedule:

A. A letter (1 page) from Richard A. Berthelsen to Steve Weinberg dated May 25, 2004 (App. 66);

B. A letter (2 pages) dated June 1, 2004, to me from Alan D. Strasser, Mr. Weinberg's counsel (App. 67, 68);

C. A letter (2 pages) to me from Alan D. Strasser dated June 14, 2004 (App. 69, 70);

D. A letter (1 page) to me from Alan D. Strasser dated July 8, 2004 (App. 71);

E. A subpoena addressed to Richard Berthelsen, Esq. (2 pages) signed by me on June 24, 2004 (App. 72, 73);

F. A letter (1 page) to me from Alan D. Strasser dated August 4, 2004 (App. 74);

G. A letter (1 page) dated August 26, 2004, to me from Richard A. Berthelsen (App. 75);

H. A subpoena addressed to Richard Berthelsen (3 pages) signed by me on August 10, 2004 (App. 76, 77, and 78);

I. A letter (2 pages) to me from Alan D. Strasser dated September 7, 2004 (App. 79, 80).

8. As the attached correspondence shows, Mr. Weinberg was notified by letter dated May 25, 2004, that he was being decertified as an NFLPA Contract Advisor effective no later than the end of his current suspension (App. 66).

9. On June 1, 2004, Alan D. Strasser, Mr. Weinberg's attorney, requested hearing dates on two (2) grievances against Howard Silber: *Stephen Davis v. Howard Silber* (NFLPA Case No. 2-29) and *Steve Weinberg v. Howard Silber* (NFLPA Case No. 02-CA-8). In this letter, Mr. Strasser acknowledges that I had been working with Mr. Michael Kirshon to coordinate dates for the hearing of those grievances.

10. Mr. Kirshon was Mr. Weinberg's former attorney who initially represented him in his case against Howard Silber (NFLPA Case No. 02-CA-8). Mr. Strasser's June 1, 2004, letter

also requested that Spencer Folau and Karl Hankton be contacted so that Mr. Weinberg's grievances against them could be scheduled for hearing (App. 67, 68).

11. On June 14, 2004, Mr. Strasser appealed the May 25 decertification of Mr. Weinberg's status as a Contract Advisor. The letter states that Mr. Weinberg was still very interested in scheduling for hearing the four (4) grievances referred to in the June 1, 2004, correspondence (App. 69, 70).

12. On July 8, 2004, Mr. Weinberg's attorney requested that I enforce the subpoena issued by me on June 24, 2004 (App. 71).

13. On August 4, 2004, Mr. Weinberg's attorney sent me another subpoena for my signature. (App. 74). This letter also states: "We have not requested as yet that you schedule a hearing on this discipline matter. We are interested to receive first the responses to our discovery request and will ask that you schedule a hearing on this matter once we have reviewed them. I will send you a separate letter concerning the scheduling of the hearings regarding other grievances." (App. 74).

14. On August 26, 2004, the NFLPA moved to quash a subpoena that I signed on August 10, 2004. (App. 75).

15. On September 7, 2004, Mr. Weinberg's attorney replied to the motion to quash filed by Mr. Berthelsen on August 26, 2004. (App. 79, 80).

16. This is all of the correspondence I have received regarding the scheduling of the five (5) grievances. Although Mr. Strasser states in his letter of August 4, 2004 (App. 74), that he will ask me to schedule a hearing on the disciplinary grievance, after receiving responses to his discovery requests, he never made any request to schedule a hearing.

17. Although Mr. Strasser's August 4, 2004, letter (App. 74) also states that he would send me a separate letter concerning the scheduling of the hearings regarding the other

grievances, he never sent me any additional correspondence requesting that these grievances be scheduled for hearing.

18. I do not have authority to enforce a subpoena. If a party to an arbitration desires to enforce a subpoena, he or she must apply to the Federal District Court for enforcement."

Further, Affiant sayeth not.

Roger P. Kaplan

Roger P. Kaplan

COMMONWEALTH OF VIRGINIA §
§
CITY OF ALEXANDRIA §

SUBSCRIBED AND SWORN TO before me, this 27th day of February 2007.

My Commission Expires:
1/31/2009

NOTARY PUBLIC IN AND FOR THE
COMMONWEALTH OF VIRGINIA

App. 60

November 20, 2002

NFL Players Association
2021 L Street, NW
Suite 600
Washington, DC 20036
202.463.2200
Fax 202.857.0380

VIA FIRST CLASS MAIL

Arbitrator Roger Kaplan
211 North Union Street, Suite 100
Alexandria, VA 22314

Re: Steve Weinberg v. Howard Silber (Stephen Davis)

Dear Arbitrator Kaplan:

The parties have been unable to resolve the above-stated grievance filed under Section 5 of the NFLPA Regulations Governing Contract Advisors. Please schedule a hearing date for this grievance at your earliest convenience.

Also, attached is a copy of the file for your information.

Sincerely,

Tom DePaso/clw

Tom DePaso
Staff Counsel

TJD:clw

enclosures

cc: Steve Weinberg (w/o encl.)
Howard Silber (w/o encl.)

NFL Players Association
2021 L Street, NW
Suite 600
Washington, DC 20036
202.463.2200
Fax 202.857.0380

November 20, 2002

VIA FIRST CLASS MAIL

Arbitrator Roger Kaplan
211 North Union Street, Suite 100
Alexandria, VA 22314

Re: Steve Weinberg v. Howard Silber (Doug Evans)

Dear Arbitrator Kaplan:

The parties have been unable to resolve the above-stated grievance filed under Section 5 of the NFLPA Regulations Governing Contract Advisors. Please schedule a hearing date for this grievance at your earliest convenience.

Also, attached is a copy of the file for your information.

Sincerely,

Tom DePaso /clw

Tom DePaso
Staff Counsel

TJD:clw

enclosures

cc: Steve Weinberg (w/o encl.)
Howard Silber (w/o encl.)

App. 62

NFL Players Association
2021 L Street, NW
Suite 600
Washington, DC 20036
202.463.2200
Fax 202.857.0380

November 20, 2002

VIA FIRST CLASS MAIL

Arbitrator Roger Kaplan
211 North Union Street, Suite 100
Alexandria, VA 22314

Re: Steve Weinberg v. Howard Silber (Keith Traylor)

Dear Arbitrator Kaplan:

The parties have been unable to resolve the above-stated grievance filed under Section 5 of the NFLPA Regulations Governing Contract Advisors. Please schedule a hearing date for this grievance at your earliest convenience.

Also, attached is a copy of the file for your information.

Sincerely,

Tom DePaso
Staff Counsel

TJD:clw

enclosures

cc: Steve Weinberg (w/o encl.)
Howard Silber (w/o encl.)

App. 63

November 20, 2002

NFL Players Association
2021 L Street, NW
Suite 600
Washington, DC 20036
202.463.2200
Fax 202.857.0380

VIA FIRST CLASS MAIL

Arbitrator Roger Kaplan
211 North Union Street, Suite 100
Alexandria, VA 22314

Re: Steve Weinberg v. Howard Silber (Lional Dalton)

Dear Arbitrator Kaplan:

The parties have been unable to resolve the above-stated grievance filed under Section 5 of the NFLPA Regulations Governing Contract Advisors. Please schedule a hearing date for this grievance at your earliest convenience.

Also, attached is a copy of the file for your information.

Sincerely,

Tom DePaso /clw

Tom DePaso
Staff Counsel

TJD:clw

enclosures

cc: Steve Weinberg (w/o encl.)
Howard Silber (w/o encl.)

PAGE 5/6 * RCVD AT 2/26/2007 11:15:10 AM [Eastern Standard Time] * SVR:RIRIGHTFAX/3 * DNIS:43908 * CSID:2026593913 * DURATION (mm-ss):03-06

ROGER P. KAPLAN
Arbitrator

211 North Union Street
Suite 100
Alexandria, Virginia 22314

703-684-4844
Fax: 703-684-4864

November 26, 2002

Steve Weinberg, Esq.
6514 Riverview Lane
Dallas, Texas 75248

Howard Silber, Esq.
4333 Park Terrace Drive
Westlake Village, California 91361

Re: Weinberg v. Silber,
(Dalton, Traylor, Davis & Evans)
Case No. NFLPA 02-CA-10;

Dear Gentlemen:

I received Mr. DePaso's letter dated November 20, 2002, designating me as the Arbitrator in the above-captioned case.

Pursuant to Section 5 of the NFLPA Regulations Governing Contract Advisors, I have the responsibility for setting a hearing date in this matter as soon as possible. Please call me at your earliest convenience with suggested dates for the hearing. As soon as I hear from you, this matter will be scheduled for hearing.

I look forward to hearing from you in the immediate future. If you have any questions, please do not hesitate to call me.

Sincerely,

Roger P. Kaplan

RPK/cd

cc: Tom DePaso, NFLPA

NFL Players Association
2021 L Street, NW
Suite 600
Washington, DC 20036
202.463.2200
Fax 202.857.0380

May 25, 2004

**VIA FACSIMILE AND
OVERNITE MAIL**

**Steve Weinberg
6514 Riverview Lane
Dallas, TX 75248**

Re: Most Recent Disciplinary Complaint

Dear Steve:

The NFLPA Committee on Agent Regulation and Discipline met by conference call last night and decided to decertify you as an NFLPA Contract Advisor effective as soon as possible but no later than the end of your current suspension. Under the Committee's action, you would be permitted to re-apply for Certification as an NFLPA Contract Advisor after a date which is five years after the beginning of your decertification. This action is based upon the allegations in the Committee's March 17, 2004 Complaint against you and the answer your counsel provided to that Complaint.

Pursuant to the NFLPA Regulations Governing Contract Advisors, you may appeal the Committee's decision to Arbitrator Roger Kaplan within 20 days of your receipt of this notice. For purposes of such an appeal, the Committee's action should be considered as an immediate revocation of your Certification pursuant to Section 6B of the Regulations, with the result that the discipline will not be stayed pending the appeal.

Sincerely,

Richard A. Berthelsen
NFLPA General Counsel and Counsel
to the Disciplinary Committee

RAB:ps

cc: Disciplinary Committee

App. 66

KUTAK ROCK

SUITE 1000
1101 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036-4374

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PITTSBURGH

ALAN D. STRASSER
alan.strasser@kutakrock.com
(202) 828-2417

June 1, 2004

Via Fax (703) 684-4864 and 1st class mail

Mr. Roger P. Kaplan
NFLPA Arbitrator
211 N. Union Street, Suite 100
Alexandria, VA 22314

Re: Stephen Davis v. Howard Silber (NFLPA Case No. 2-29); and
Steve Weinberg v. Howard Silber (NFLPA Case No. 02-CA-8)

Dear Mr. Kaplan:

As counsel to Steven A. Weinberg, I am writing to request that you schedule hearings in the two matters named above. Mr. Weinberg informs me that these Section 5 grievance cases have been pending with the NFLPA and your office since 2002. It is my understanding that you have been primarily working with Mr. Michael Kirshon to coordinate dates for these hearings, but that no dates have ever been set.

As you know, Mr. Weinberg's NFLPA suspension ends on August 6, 2004. I believe it is important to his career to have these cases heard prior to that date. We anticipate needing two days to complete these hearings. Since both grievances arise out of the same set of facts, and rely on the same witnesses, we hope you can schedule these hearings for consecutive days for the convenience of the parties. Mr. Weinberg suggests that the hearings be set either during the last two weeks of June or the first two weeks of July, which would permit Mr. Davis to appear at the hearings without interfering with his attendance at training camp, which begins in late July.

Mr. Weinberg also has requested that I inquire about the status of his pending Section 5 grievances against Spencer Folau and Karl Hankton. Mr. Weinberg filed these grievances in December 2003 and received from Mr. DePaso at the NFLPA letters dated December 9, 2003 acknowledging receipt of the grievances and requiring each grievant to respond within 20 days. Mr. Weinberg also has received copies of two letters written to you by Mr. DePaso dated March 10, 2004 requesting that you schedule a hearing for both these matters. However, Mr. Weinberg informs me that he has not yet received any answer from either Mr. Folau or Mr. Hankton, nor has he received any correspondence from you inviting the parties to propose dates for hearings. Accordingly, he requests

KUTAK ROCK LLP

that you send these letters to all parties and docket these grievances so that we can begin the arbitration process for both of them.

I would be happy to discuss these matters with you if that would be helpful. Please feel free to call me at (202) 828-2417 or to e-mail me at alan.strasser@kutakrock.com

Sincerely,

Alan D. Strasser

Alan D. Strasser

cc: Mr. Tom DePaso
Mr. Steve Weinberg

App. 68

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ALAN D. STRASSER
alan.strasser@kutakrock.com
(202) 828-2417

June 14, 2004

VIA FACSIMILE (703) 684-4864
AND FIRST-CLASS MAIL

Roger P. Kaplan
NFLPA Arbitrator
211 N Union St Ste 100
Alexandria VA 22314

Re: NFLPA v. Weinberg

Dear Mr. Kaplan:

As counsel to Steven A. Weinberg, I am filing with you today a Notice of Appeal of the Proposed Discipline that the NFLPA Agent Disciplinary Committee issued against him on May 25, 2004. Please be advised that Mr. Weinberg received this notice via FEDEX only on May 26, 2004. A copy of the proposed discipline is attached to this notice.

As you know, Mr. Weinberg's 18-month NFLPA suspension is due to expire on August 6, 2004. I spoke with you last week about scheduling hearings for four pending grievances, which Mr. Weinberg would like to have heard and decided, if possible, by that date. Mr. Weinberg informs me he has just received your letter regarding the scheduling of the Spencer Folau and Karl Hankton cases, which he filed last December. He remains very interested in scheduling those two hearings, as well as the two grievances involving Mr. Silber and Mr. Davis, as soon as possible.

The four Section Five Grievance Cases, which all require scheduling, are as follows:

1. Davis v. Silber, Case No. NFLPA 2-29 (pending since June 5, 2002);
2. Weinberg v. Silber , Case No. NFLPA 02-CA-8 (pending since June 13, 2002);
3. Weinberg v. Folau, Case No. NFLPA 04-35 (filed in December 2003); and
4. Weinberg v. Hankton, Case No. NFLPA 04-36 (filed in December 2003).

KUTAK ROCK LLP

VIA FACSIMILE AND FIRST-CLASS MAIL

Roger P. Kaplan
June 14, 2004
Page 2

Please contact me with a list of suitable dates for hearings in the four cases listed above, as well as possible dates for Mr. Weinberg's appeal to the proposed discipline. I will be forwarding discovery requests to you in the near future. Thank you.

Sincerely,

Alan D. Strasser

Alan D. Strasser

dws

03-95135.2

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ALAN D. STRASSER
alan.strasser@kutakrock.com
(202) 828-2417

July 8, 2004

VIA FACSIMILE 703.684.4864
AND FIRST-CLASS MAIL

Roger P. Kaplan
NFLPA Arbitrator
211 N Union St Ste 100
Alexandria VA 22314

Re: *NFLPA v. Weinberg*, NFLPA No. 94-D3

Dear Mr. Kaplan:

As counsel to Mr. Weinberg in the above-captioned matter, I am writing to request that you enforce the subpoena that you signed and issued to the NFLPA in this matter. You signed a subpoena on June 24, 2004. We had it served on the NFLPA the following day. The subpoena called for production of the items by June 30, 2004. When we received nothing from the NFLPA, I sent a reminder letter to Mr. Berthelsen on July 2, 2004, requesting that the NFLPA comply immediately with the subpoena.We received no documents from the NFLPA in response to the subpoena, nor in response to my reminder letter. The NFLPA has not even responded to my letter.

During this same period, the NFLPA has felt free to demand that Mr. Weinberg provide documents to it. By letter dated June 22, Mr. Berthelsen demanded that Mr. Weinberg provide by June 25 the documents underlying his Answer to the Disciplinary Complaint. Mr. Weinberg responded within the time requested by Mr. Berthelsen.

We believe that the arbitration rules ought to apply equally to both parties and the NFLPA should not have the right to ignore a duly-issued subpoena. We request that you order the NFLPA to produce everything the subpoena calls for no later than July 15 or that you will vacate with prejudice the discipline imposed on Mr. Weinberg.

I would be happy to discuss these matters with you if that would be helpful. Please feel free to call me at (202) 828-2417 or to e-mail me at alan.strasser@kutakrock.com.

Sincerely,

Alan D. Strasser

dws

cc: Mr. Richard Berthelsen
Mr. Steve Weinberg

App. 71

03-95997.1

SUBPOENA FOR RECORDS

In re:
ARBITRATION
between
NFL Disciplinary Committee
and
Steve Weinberg (NFLPA No. 94-D3)

To: Richard Berthelsen, Esq.
NFLPA General Counsel
2021 L Street NW
Washington, DC 20036

Request therefore having been duly made by Alan D. Strasser, Esq., *whose address is* 1101 Connecticut Ave NW Ste 1000, Washington, DC 20036.

YOU ARE HEREBY REQUIRED AND DIRECTED TO PRODUCE THE FOLLOWING RECORDS AT THE OFFICE OF Alan D. Strasser, Esq., KUTAK ROCK LLP, 1101 Connecticut Ave NW Ste 1000, Washington, DC 20036, ON OR BEFORE June 30,2004.

a) All letters and correspondence between the NFLPA (including Agent Disciplinary Committee) and Keith Washington from January 1, 2002 until the present;

b) All documents related to the verified information used to issue the discipline complaint dated March 17,2004. This would include all signed letters, affidavits, complete hand-written notes of telephone and / or in-person conversations, telephone recordings, and any other documents related to the complaint;

c) The written statement that Mr. Weinberg allegedly asked Mr. Washington to sign, as described in the Disciplinary Complaint dated March 17,2004;

d) All documents (other than the March 17, 2004 Disciplinary Complaint) sent to Mr. Weinberg or documentation of an oral request to Mr. Weinberg asking him to respond to the allegations made by Mr. Washington;

e) All written warnings, or documentation of oral warnings to Mr. Weinberg that his conduct with Mr. Washington might violate NFLPA rules or regulations;

f) All written documents received by the NFLPA (including Agent Disciplinary Committee) from any source describing, relating to, or alleging the early payment of fees from an NFL player to a Certified Contract Advisor, regardless of whether the conduct related to Mr. Weinberg;

g) All written documents sent by the NFLPA to any Certified Contract Advisor describing, relating to, or alleging the early payment of fees from an NFL player to a

Certified Contract Advisor, regardless of whether the conduct related to Mr. Weinberg;

h) All disciplinary complaints issued by the NFLPA Agent Disciplinary Committee against a Certified Contract Advisor for the early receipt of fees;

i) All answers filed by a Certified Contract Advisor to any NFLPA inquiry or disciplinary complaint filed by the Agent Disciplinary Committee involving an allegation of a Contract Advisor's early receipt of fees;

j) All documents relating to all disciplinary actions taken against a certified contract advisor for receiving early payment of fees;

k) All correspondence between the NFLPA (including the Agent Disciplinary Committee) and certified contract advisor(s) regarding the early payment of agent fees;

l) Documentation of any written NFLPA policy regarding or relating to the early payment of agent fees either from any NFL player or to a Certified Contract Advisor.

m) Documentation of any written NFLPA policy regarding whether the NFLPA requests information from Certified Contract Advisors before issuing discipline against them.

In testimony whereof the undersigned Arbitrator has hereunto set his hand and authorized the issuance hereof.

Issued at Alexandria, VA this 24th *day of June 2004*

Roger P. Kaplan
Arbitrator

App. 73

KUTAK ROCK LLP

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1101 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036-4374

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RICHMOND
SCOTTSDALE
WICHITA

ALAN D. STRASSER
alan.strasser@kutakrock.com
(202) 828-2417

August 4, 2004

VIA FEDEX PRIORITY OVERNIGHT

Roger P. Kaplan
Arbitrator
211 N Union St Ste 100
Alexandria VA 22314

Re: *NFLPA v. Weinberg*, No. 94-D3

Dear Mr. Kaplan:

I have enclosed another subpoena for your signature in this case. I would appreciate your signing it and returning it to me in the enclosed prepaid FedEx envelope. I will ensure that the subpoena is served.

We have not requested as yet that you schedule a hearing on this discipline matter. We are interested to receive first the responses to our discovery requests and will ask that you schedule a hearing on this matter once we have reviewed them. I will send you a separate letter concerning the scheduling of the hearings regarding other grievances.

Sincerely,

Alan D. Strasser

Alan D. Strasser

dws

Enclosures

03-96722.1

August 26, 2004

VIA FACSIMILE and
FIRST CLASS MAIL

NFL Players Association
2021 L Street, NW
Suite 600
Washington, DC 20036
202.463.2200
Fax 202.857.0380

Arbitrator Roger Kaplan
211 North Union Street, Suite 100
Alexandria, VA 22314

Re: NFLPA Disciplinary Committee v. Steve Weinberg

Dear Arbitrator Kaplan:

The NFLPA Disciplinary Committee hereby files a motion to quash the August 10, 2004 subpoena obtained from you by counsel for the respondent in the above captioned case. The subpoena, containing a list of some 24 separate items, calls for production of documents which are totally irrelevant to the case before you, and compliance therewith would be overly burdensome for the NFLPA. While we are prepared to produce any document pertaining to violations by Mr. Weinberg of the Regulations as alleged in the Complaint, we do not believe that any documents regarding Howard Silber or any other agents or players not involved in this matter are relevant to the dispute.

We are prepared to address this matter in a conference call involving yourself and Mr. Strasser at your mutual convenience.

Sincerely,

Richard A. Berthelsen
NFLPA General Counsel
and Counsel to the NFLPA
Disciplinary Committee

cc: Alan Strasser

RAB:ps

SUBPOENA FOR RECORDS

In re:
ARBITRATION
between
NFL Disciplinary Committee
and
Steve Weinberg (NFLPA No. 94-D3)

To: Richard Berthelsen, Esq.
NFLPA General Counsel
2021 L Street NW
Washington DC 20036

Request therefore having been duly made by Alan D. Strasser, Esq., *whose address is* 1101 Connecticut Ave NW Ste 1000, Washington DC 20036.

YOU ARE HEREBY REQUIRED AND DIRECTED TO PRODUCE THE FOLLOWING RECORDS AT THE OFFICE OF Alan D. Strasser, Esq., KUTAK ROCK LLP, 1101 Connecticut Ave NW Ste 1000, Washington, DC 20036, ON OR BEFORE August 23, 2004.

a) Based on the January 7, 2004 letter from Keith Washington to the NFLPA, which was disclosed in the prior response to discovery ("Washington letter"), provide a copy of any separate grievance filed by Mr. Washington against Howard Silber, and all NFLPA issued letters relating to these grievances;

b) Based on the Washington letter, provide a copy of any separate grievance filed by Mr. Washington against Mr. Weinberg, and all NFLPA issued letters relating to these grievances;

c) The written statement that Mr. Weinberg allegedly asked Mr. Washington to sign, as described in the Disciplinary Complaint dated March 17,2004;

d) All documents (other than the March 17, 2004 Disciplinary Complaint) sent to Mr. Weinberg or documentation of an oral request to Mr. Weinberg asking him to respond to the oral and written allegations made by Mr. Washington;

e) All written warnings, or documentation of oral warnings to Mr. Weinberg that his conduct with Mr. Washington might violate NFLPA rules or regulations;

f) All documents sent to Howard Silber or documentation of an oral request to Howard Silber asking him to respond to the oral and written allegations made by Mr. Washington;

g) All written warnings, or documentation of oral warnings to Howard Silber that his conduct with Mr. Washington might violate NFLPA rules or regulations;

h) A copy of any disciplinary complaint issued against Howard Silber as a result of the statements made in the Washington letter;

i) A copy of any disciplinary complaint issued against Howard Silber as a result of the statements made in the Washington grievance against him;

j) A copy of any document reflecting any agreement, representation, or statement that the NFLPA will not file any disciplinary charge against Howard Silber;

k) Copies of all correspondence between the NFLPA and Howard Silber, including all attorneys representing Howard Silber, regarding possible disciplinary action by the NFLPA against Howard Silber;

l) Copy of a letter and all documents sent and addressed to Richard Berthelsen, dated June 19, 2002, from former NFL player Leo Araguz regarding his early payment of agent fees paid, both prior to and during the 1999 NFL season, to his one-time Certified Contract Advisor ("Araguz letter");

m) A copy of all letters from the NFLPA to any Certified Contract Advisor asking for further information concerning the topics in the Araguz letter;

n) A copy of all responses received by the NFLPA from any Certified Contract Advisor as a result of any NFLPA generated letters concerning the topics in the Araguz letter;

o) A copy of any disciplinary complaint issued against any Certified Contract Advisor as a result of the statements made in the Araguz letter;

p) A copy of any NFLPA grievance filed by Mr. Araguz arising out of the statements made or circumstances described in the Araguz letter;

q) A copy of all NFLPA issued letters responding to any grievance filed by Mr. Araguz;

r) A copy of any letters filed with either the NFLPA or Arbitrator by any attorney representing Mr. Araguz and arising out of any grievance filed by Mr. Araguz;

s) A copy of all responses issued by either the NFLPA or Arbitrator to either Mr. Araguz or anyone representing Mr. Araguz as a result of either the Araguz letter or any letters sent by any attorney representing Mr. Araguz;

t) Copies of all letters and documents addressed and sent to Richard Berthelsen, dated September 4, 2001 (from the wife of NFL player Cory Hall) and January 3, 2002 (from both Cory Hall and his wife), alleging that his one-time Certified Contract Advisor asked a witness to sign a false affidavit in connection with a pending NFLPA grievance ("Hall letters");

u) A copy of any letters from the NFLPA to any Certified Contract Advisor asking for further information concerning the topics in the Hall letters;

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v) A copy of all responses received by the NFLPA from any Certified Contract Advisor as a result of any NFLPA generated letters concerning the topics in the Hall letters;

w) A copy of any disciplinary complaint filed against any Certified Contract Advisor arising out of the statements made, and documents provided, in the Hall letters;

x) A copy of all responses issued by the NFLPA to either Cory Hall, his wife, or anyone representing Mr. Hall as a result of the Hall letters.

In testimony whereof the undersigned Arbitrator has hereunto set his hand and authorized the issuance hereof.

Issued at Alexandria, VA this 10th *day of August 2004*

Roger P. Kaplan
Arbitrator

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KUTAK ROCK LLP

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ALAN D. STRASSER
alan.strasser@kutakrock.com
(202) 828-2417

September 7, 2004

VIA FACSIMILE 703.684.4864
AND FIRST-CLASS MAIL

Roger P. Kaplan
NFLPA Arbitrator
211 N Union St Ste 100
Alexandria VA 22314

Re: *NFLPA Disciplinary Comm. v. Weinberg*
No. 94-D3

Dear Mr. Kaplan:

We have received the letter dated August 26, 2004 from Mr. Berthelsen that requests that you quash some unspecified portion of the subpoena that you already issued in the above-captioned case. The subpoena called for the production of certain materials by August 23, 2004. Mr. Berthelsen's letter, sent after the deadline for production had passed, states that the NFLPA is prepared to produce some documents, but argues that "documents regarding Howard Silber or any other agents or players not involved in this matter are relevant to this dispute."

We request that you deny the NFLPA request as untimely. The subpoena was served on the NFLPA on August 11, 2004 and called for production of a detailed list of documents not later than August 23, 2004. When the NFLPA failed to produce any documents by August 25, 2004, undersigned counsel telephoned Mr. DePaso and left a voice-mail requesting compliance with the subpoena. Mr. Berthelsen's untimely letter followed the next day. We note that the NFLPA failed to comply timely with the first subpoena in this matter as well.

We believe that the NFLPA has mischaracterized the scope of the subpoena it now seeks to quash. The subpoena does not seek simply to obtain documents about "other agents or players," but instead to obtain information about other players or agents who were accused of the same kind of misconduct of which the NFLPA has accused Mr. Weinberg. We expect that the NFLPA's documents will show that Mr. Weinberg is the only agent who has been subject to discipline for receiving his agent fees a few weeks early in a season. Finally, the NFLPA's suggestion that information about Howard Silber is irrelevant to this proceeding is inconsistent with the document from Mr. Washington that apparently forms the basis for the disciplinary proceeding. In that letter, dated January 7,2004 and provided to us for the first time in response

KUTAK ROCK LLP

to the first subpoena, Mr. Washington complains about the conduct of both Mr. Weinberg and Howard Silber. The NFLPA filed a disciplinary complaint against Mr. Weinberg; what happened to Mr. Silber?

We request that you enforce the subpoena as written. We also would be prepared to join a conference call this week (except Thursday, when I will be traveling.)

Sincerely,

Alan D. Strasser

dws

cc: Mr. Steve Weinberg